

## **REMARKS**

Applicants have carefully considered the Office Action, and respectfully submit that the subject application is now in condition for allowance based upon the amendments presented herein and following remarks.

### **Summary of Office Action**

In the Office Action dated January 13, 2009, the Examiner

- 1) Rejected claims 4-8 and 10 under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- 2) Rejected claims 1-7 under 35 U.S.C. § 102(b) as being unpatentable over Bruck et al (DE 3501 697); and
- 3) Rejected claims 8-10 under 35 U.S.C. § 102(b) as being unpatentable over Bataille et al. (US 2001/0051677).

### **35 U.S.C. § 112 Second Paragraph Rejection of Claims 4-8 and 10**

As discussed above, claims 4-8 and 10 were rejected under 35 U.S.C. § 112 second paragraph as being indefinite. The Examiner objected to the use of the word "about" as being indefinite. Applicants respectfully disagree. The use of the term "about" does not render a claim indefinite. The term "about" entitles the applicant to a relatively broad interpretation of any range that it modifies that is claimed in the patent. *Syntex (U.S.A.) v. Inc. v. Paragon Optical Inc.*, 7 USPQ2d 1001, 1038 (D. Ariz. 1987). MPEP § 2173.05 (b) states that "[t]he fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph." It also states that "[a]cceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of specification." The examiner has not shown that the one of ordinary skilled in the art would not understand what is claimed due to the usage of the word "about." Therefore, the rejection under 35 U.S.C. §112 should be withdrawn.

**35 U.S.C. § 102 (b) Rejection of Claims 1-7**

Claims 1-7 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bruck et al. The Examiner stated that Bruck et al. discloses a rubber composition which comprises (A) 100 parts by weight of a mixture of butadiene-acrylonitrile copolymer with different acrylonitrile content and a terpolymer of ethylene, propylene, and a diene and (B) 10 parts by weight of an ether-thioether such as Vulkanol 85®.

Independent claim 1 has been amended to specify that the elastomer be a particular type of elastomer(s). Support for the amendment may be found at page 3, lines 20-29. Nowhere does Bruck et al. disclose these types of elastomers. Therefore, Bruck et al. does not anticipate every element of the claimed invention and withdrawal of the rejection is respectfully requested.

**35 U.S.C. § 102 (b) Rejection of Claims 8-10**

Claims 8 -10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bataille et al. The Examiner stated that Bataille et al. disclose the use of alkylsuhphonic or alkylsulphuric acid in a tire and the process for making the same, where the alkylsuhphonic and alkylsulphuric acids are "surfactant[s] containing a thio functionality". Applicants respectfully disagree.

It is well known in the industry that the term *thio-* designates the replacement of an oxygen atom with a sulfur atom. This means that *thio* functionality refers to the presence of a divalent sulfur atom – not sulfur ions. In alkylsuhphonic or alkylsulphuric acids, it is not possible to replace the sulfur atom with an oxygen atom. Therefore, Applicants assert that alkylsuhphonic or alkylsulphuric acids do not contain *thio* functionality as Examiner alleged. Thus, Batille does not anticipate every element of the claimed invention. Withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

**Other Claim Amendments**

Claims 4, 5, and 8 have been amended to make the claims clearer.

Claim 9 has been amended to specify that the surfactant be one that contains this functionality.

Applicants have also added new claims 11-13, which are dependent upon claim 1. Support for the claim 11 may be found at page 3, lines 20-29. Support for claim 12 may be found at page 4, line 6 – page 5, line 19. Support for claim 13 may be found at page 6, line 22.

Respectfully submitted,  
Bridgestone Americas Holding, Inc.

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CERTIFICATE OF MAILING

I hereby certify that the attached Amendments and Response to Office Action was deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on \_\_\_\_\_.

Millie Persin

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